

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

JAMES HAMBRICK and
DENISE HAMBRICK,

Plaintiffs,

v.

No. _____

HAMID MASHHOON; CAROL PERRIN;
BELAIR @ BECKWITH, LLC (formerly CRK
REAL ESTATE, LLC); RM WILSON
COUNTY INVESTOR, LLC; MOUNT JULIET
INVESTOR LLC; THE MASHHOON FAMILY
TRUST; CHARLES KAEIN; MARCUS
FRENCH;

Defendants.

NOTICE OF REMOVAL

Defendants Charles Kaelin ("Kaelin") and Marcus French ("French") file this Notice of Removal seeking to remove to this Court an action brought against them and currently pending in the Chancery Court of Tennessee, Fifteenth Judicial District, Wilson County, bearing Docket No. 2014-CV-109, and with respect thereto, would show this Court as follows:

1. The above-styled cause was commenced in the Chancery Court of Tennessee, Fifteenth Judicial District, Wilson County, bearing Docket No. 2014-CV-109, by virtue of a Complaint filed by Plaintiffs James Hambrick and Denise Hambrick ("Plaintiffs") on March 24, 2014 against the above-named Defendants.

2. Plaintiffs served Kaelin with a copy of the Complaint and Summons on March 26, 2014. Plaintiffs thereafter served French with a copy of the same on March 31, 2014. Both of these dates of service occurred less than 30 days before the filing of this Notice of

Removal. To the best of Kaelin's and French's knowledge, Plaintiffs have not served any of the other Defendants with a copy of the Complaint or Summons. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint, along with copies of process and exhibits, are attached hereto and made a part of this Notice as **Exhibit A**.

3. This action is one of a civil nature for damages claimed as a result of the Defendants' alleged breach of fiduciary duties, breach of contract, fraud, and unjust enrichment, as well as their alleged violations of the Racketeer Influenced Corrupt Organizations Act ("RICO"), codified as 18 U.S.C. § 1961, et seq., and mail fraud under 18 U.S.C. § 1341. This Court has original jurisdiction over the federal RICO and mail fraud claims pursuant to 28 U.S.C. §§ 1331 and 1441, et seq., and has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367, as the state and federal law claims arise out of the same case or controversy.

4. The time period within which Kaelin and French are required to file this Notice of Removal pursuant to 28 U.S.C. § 1446(b)(1) has not yet expired. Kaelin and French were served on March 26, 2014 and March 31, 2014, respectively. Upon information and belief, none of the other named Defendants have been served.

5. Kaelin and French request that this case be removed to the District Court for the Middle District of Tennessee. The other named Defendants have not signed this Notice of Removal, but because they have not yet been served by Plaintiffs, their consent is not required. *Nixon v. James*, 174 F.Supp.2d 739, 743 (M.D. Tenn. 2001) ("There are three well-recognized exceptions to the rule that all defendants must join in the removal petition: (1) where a defendant was not yet served with process at the time the removal petition was filed. . . .").

6. Kaelin and French file herewith a copy of all process, pleadings, and orders served upon them in this action. Since the date on which Kaelin and French were served with the Summons, the Complaint, and the exhibits attached thereto, there have been no other proceedings in this case in the Chancery Court of Wilson County, Tennessee.

7. Notice to the Chancery Court of Wilson County, Tennessee, which attaches a duplicate of this Notice of Removal to federal court, is being filed with the Clerk of the Chancery Court of Wilson County, Tennessee, as required by 28 U.S.C. § 1446(d).

8. Notice of the filing of this Notice of Removal will be sent to Plaintiffs, the only adverse parties, as required by 28 U.S.C. § 1446(d).

9. The allegations of this Notice are true and correct and within the jurisdiction of the United States District Court for the Middle District of Tennessee and, as noted above, this cause of action is believed to be removable to the United States District Court for the Middle District of Tennessee.

WHEREFORE, Defendants Kaelin and French file this Notice for the purpose of removing this action from the Chancery Court of Wilson County, Tennessee, to the United States District Court for the Middle District of Tennessee.

Respectfully submitted,

John Hicks

with permission by
Henry Hildebrand, IV (BPR
032168)

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*Attorney for Defendants Charles Kaelin and
Marcus French*

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of April, 2014, a copy of the foregoing Notice of Removal was served by regular U.S. mail, first class postage prepaid, as follows:

James and Denise Hambrick
1702 Valleyview Drive
Mount Juliet, TN 37122

John Hicks

with permission by
Henry Hildebrand, IV
(BPR # 032168)

John S. Hicks